

Appeal from a decision of the California State Office, Bureau of Land Management, rejecting simultaneously filed noncompetitive oil and gas lease application, CA 12557.

Affirmed.

1. Oil and Gas Leases: Applications: Generally -- Oil and Gas Leases:
Applications: Drawings

An oil and gas lease application, Form 3112-1 (July 1980), is not completed in accordance with regulation 43 CFR 3112.2-1 or the instructions on the application itself where questions (d) through (f) are left unanswered, and therefore, must be rejected.

2. Oil and Gas Leases: Applications: Generally -- Oil and Gas Leases:
Applications: Drawings

A simultaneous oil and gas lease application which is not signed or dated, in accordance with 43 CFR 3112.2-1, must be rejected.

APPEARANCES: Marianne L. McManus, pro se.

OPINION BY ADMINISTRATIVE JUDGE HARRIS

Marianne L. McManus has appealed from a decision of the California State Office, Bureau of Land Management (BLM), dated June 9, 1982, rejecting her noncompetitive simultaneous oil and gas lease application, CA 12557. The application was rejected for failure to complete properly her application (Form 3112-1 (July 1980)) in accordance with 43 CFR 3112.2-1. Appellant's application was drawn with first priority for parcel CA 35 in the

April 1982, drawing. The BLM decision to reject the application was based on appellant's failure to answer questions (d), (e), and (f) on the application form 1/ and to sign and date the application in the spaces provided. 2/

In her statement of reasons for appeal, appellant contends that one of two cards "filed at the same time in the same drawing was completed correctly. Since they were mailed from Post Office #904061 (Santa Monica) at the same time, in the same handwriting, same drawing, etc., nothing changed between the time of one card and the other card."

[1] The Department is authorized to issue a noncompetitive simultaneous oil and gas lease only to the first-qualified applicant. 30 U.S.C. § 226(c) (1976). We have consistently required strict compliance with the regulations promulgated for the simultaneous applications. Sorensen v. Andrus, 456 F. Supp. 499 (D. Wyo. 1978); Fen F. Tzeng, 68 IBLA 381 (1982).

The applicable Departmental regulation, 43 CFR 3112.2-1(a), provides in relevant part: "An application to lease under this subpart consists of a simultaneous oil and gas lease application on a form approved by the Director, Bureau of Land Management, completed, signed and filed pursuant to the regulations in this subpart." (Emphasis added.) The regulation at 43 CFR 3112.6-1(a) provides: "Any application which is not filed in accordance with § 3112.2 of this title * * * shall be rejected." Further, the application (Form 3112-1), by its instructions to "check appropriate boxes," clearly reflects BLM's intent that items (d) through (f) be checked on the application itself.

This Board has consistently held that an oil and gas lease application is not completed where questions (d) through (f) are left unanswered. Fen E.

1/ Items (d) through (f) are a series of questions, each of which is followed by boxes to be checked "Yes" or "No" in response. The questions are:

"(d) Does any party, other than the applicant and those identified herein as other parties in interest, own or hold any interest in this application, or the offer or lease which may result?

"(e) Does any agreement, understanding, or arrangement exist which requires the undersigned to assign, or by which the undersigned has assigned or agreed to assign, any interest in this application, or the offer or lease which may result, to anyone other than those identified herein as other parties in interest?

"(f) Does the undersigned have any interest in any other application filed for the same parcel as this application? The introductory words to items (a) through (g) are as follows: "UNDERSIGNED CERTIFIES AS FOLLOWS (check appropriate boxes)." (Original in italics.)

2/ Form 3112-1 (July 1980) refers to 43 CFR 3102.2-7 (1981) as requiring the disclosure of other parties in interest. That regulation was revoked effective Feb. 26, 1982, and replaced with 43 CFR 3112.2-3 for simultaneous filings. See 47 FR 8544 (Feb. 26, 1982).

Tzeng, *supra*, and cases cited therein; Vincent M. D'Amico, 55 IBLA 116 (1981), *appeal dismissed*, D'Amico v. Watt, Civ. No. 81-2050 (D.D.C. Aug. 31, 1981). Answers to questions (d) through (f) provide essential information regarding an applicant's qualifications. Jack Goodwin, 68 IBLA 400 (1982); Dennis M. Joy, 66 IBLA 260 (1982).

Furthermore, the Board has stated that the information required under items (d), (e), and (f) is part of the certification of qualifications and it is applicable only to the application for which it is made. The certification must be made on all applications for lease as indicated, and cannot be provided by attachment or incorporated by reference. Ottlin D. Hass, 61 IBLA 338 (1982), and cases cited therein. See Jack Goodwin, 68 IBLA 400, 401 n.1 (1982).

Since appellant did not complete items (d) through (f) on the application form, BLM properly rejected her application as not complete in accordance with section 3112.2-1(a) or the explicit instructions on the application itself.

[2] In addition, it is well established that an application form which is not signed or dated must be rejected. Fred E. Forster III, 65 IBLA 38 (1982); Bonita L. Ferguson, 61 IBLA 178 (1982). The applicable Departmental regulation, 43 CFR 3112.2-1, requires that a simultaneous oil and gas lease application be completed and signed manually in ink. The Board stated in Bonita L. Ferguson, *supra*, at page 179:

The absence of any date at all is clearly disqualifying. Strict compliance with the regulations governing the drawing, 43 CFR 3112, is enforced to protect the rights of the second and third drawn qualified offerors. Ballard E. Spencer Trust, Inc., 18 IBLA 25 (1974), *aff'd*, Ballard E. Spencer Trust, Inc. v. Morton, 544 F.2d 1067 (10th Cir. 1976).

Moreover, the signing of the application is essential; it is the certification of all the other statements made on the form. Thomas Buckmann, 23 IBLA 21 (1975). Further, we stated in Fred E. Forster III, *supra* at page 39, "[M]anual signatures on other applications filed by the same person in the same simultaneous oil and gas lease drawing will not constitute compliance with the clear dictate of 43 CFR 3112.2-1 that each application be 'signed.'" Since appellant failed to sign or date her application form, BLM properly rejected her lease application.

The Board has consistently required strict compliance with the substantive requirements of the simultaneous regulations, in particular where the cases involve omitted information. Ottlin D. Hass, *supra*. See H. L. McCarroll, 55 IBLA 215 (1981), and cases cited therein.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Bruce R. Harris
Administrative Judge

We concur:

Douglas E. Henriques
Administrative Judge

Anne Poindexter Lewis
Administrative Judge

